

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

2. Despite the above diagnosis, the Department for at least the last two years has approved coverage under Medicaid for in-home personal care services for her daughter. In

December 2002 and May 2003, the Department approved five (5) hours per week. In October 2003 it approved 20 hours per week. When it reviewed the petitioner's request in My 2004 the Department denied services altogether.

3. The parties agree that the nature of the services sought by the petitioner, and granted in the past by the Department, were to help "motivate" the petitioner's daughter to go to school and cue her to behave at home. The Department maintains that such services are inappropriate uses of "personal care" and that alternative funding sources through community mental health services and/or the girl's school district should be available to meet her needs in this regard. The Department admits that its past approval of Medicaid coverage in the petitioner's case was in error. At the hearing in this matter, held on July 12, 2004, the petitioner indicated she would follow up on the alternatives suggested by the Department.

ORDER

The Department's decision is affirmed.

REASONS

Section M740.1 of the Medicaid regulations provides as follows:

Personal care services are services related to a recipient's physical requirements, such as assistance with eating, bathing, dressing, personal hygiene, activities of daily living, bladder and bowel requirements, and taking medications. Services are provided to enable a recipient to remain in his or her home/community, maintain their current health status and prevent, delay, or minimize deterioration of their condition. Personal care services are intended to supplement care provided by a recipient's family or primary caregiver, not replace it. Services may be provided in the home or in settings outside the home, when necessary.

In this case there does not appear to be any real dispute that the petitioner's daughter does not require the type of services contemplated by the above regulation. Although it is unfortunate that the petitioner may have come to rely on Medicaid coverage in the past due to the Department's admitted error, hopefully she will now be able to avail herself of other resources in the community to get her daughter the help it appears she continues to need. However, inasmuch as the Department's decision is in accord with its regulations, the Board must affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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